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In re application of :
Stein et al. : DECISION ON
Serial No. 10/604,459 : PETITION
Filed: July 23, 2003 :
For: METHOD AND APPARATUS TO ADAPTIVELY COOL A WELDING-TYPE
SYSTEM

This is a decision on the REQUEST FOR RECONSIDERATION OF THE PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed July 19, 2005.

DECISION

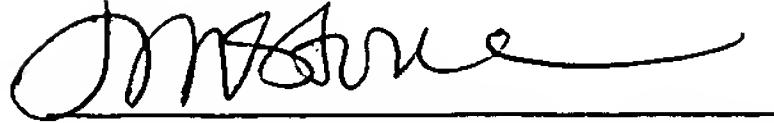
Applicants have requested reconsideration of the petition decision mailed January 3, 2006 which denied the petition requesting withdrawal of the finality of the office action mailed July 19, 2005. It is noted that the six month period for reply to the July 19, 2005 office action has expired and the application is now abandoned.

Rule 181 states:

(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

First the issue of abandonment will be addressed. Applicants have a duty to maintain pendency of the application. As stated above, a petition will not act as a stay of any period for reply or any other proceedings. Applicant still had an obligation to respond to the outstanding office action, either by amendment or other appropriate action. No response was filed and the application was properly abandoned by the examiner. It is also pointed out that even if the finality of the office action was to be withdrawn, the grounds of rejection in the office action would still apply. There would be no remailing of the office action or any restarting of time to respond because applicants would have already had a complete office action and a full time period set forth by the office action to respond.

Accordingly, because the instant application is abandoned, the instant petition is moot and is hereby **DISMISSED**.



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